

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

James Brailsford McClellan, III
347 Southport Drive
Summerville, SC 29483
SSN / ITIN: xxx-xx-7585
aka Mac McClellan

Debtor

CASE NO: 23-01172-eg

CHAPTER 13

Notice of Claim Objection

The Debtor, by and through their undersigned attorney, has filed an objection to your claim in this bankruptcy case.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to eliminate or change your claim, then within 30 days of service of this notice, you or your lawyer must:

File with the court a written response, return, or objection at: 1100 Laurel Street, Columbia, SC 29201

Responses, returns, or objections filed by an attorney must be electronically filed in ecf.scb.uscourts.gov.

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also send a copy to: Suzanne Campbell Chisholm, Post Office Box 684, Mt. Pleasant, SC 29465

Attend the hearing on the objection, scheduled to be heard on September 14, 2023 at 10:30 a.m. at the United States Bankruptcy Court, 145 King Street, Suite 225, Charleston, South Carolina.

If no response is timely filed and served, no hearing will be held on this objection, except at the direction of the judge. If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim and may enter an order granting that relief prior to the scheduled hearing date, if determined to be appropriate.

Date: 8/3/2023

/s/ Suzanne Campbell Chisholm

Suzanne Campbell Chisholm, attorney for Debtors

P. O. Box 684, Mount Pleasant, SC 29465-0684

Tel. No. (843) 884-6874 Fax No. (843) 884-0997

District Court ID No. 10274

scampbell@campbell-law-firm.com

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Certificate of Mailing

I, Suzanne Campbell Chisholm, Attorney for the Debtor, hereby certify that I have this day mailed a true and correct copy of the Debtor's Objection to Claims to:

- U.S. Bank National Association, not in its individ c/o Rushmore Loan, Management Services LL, P.O. Box 52708, Irvine, CA 92619
- Rushmore Loan Management Services LLC P.O. Box 55004 Irvine CA 92619

The Chapter 13 Trustee, UST, Debtor and attorney for the Creditor are being served electronically.

/s/ Suzanne Campbell Chisholm
Suzanne Campbell Chisholm
Attorney
Kevin Campbell, Chapter 7 Trustee
P. O. Box 684
Mount Pleasant, SC 29465
Tel. No. (843) 884-6874
Fax No. (843) 884-0997
Scampbell@campbell-law-firm.com

Dated: 8/4/2023

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Objection to Proof of Claim

The Debtor, by and through his undersigned attorney, hereby objects to claim No. 2 filed by U.S. Bank National Association, not in its individual capacity but solely as trustee for RMTP Trust, Series 2021 Cottage-TT-V ("Mortgage Company") and in support of the objection states as follows:

1. The Debtor filed Chapter 13 Bankruptcy on 04/24/2023. The Mortgage Company filed a proof of claim on 06/27/2023 that was higher than the Debtor had anticipated. Upon further investigation it was determined that the Debtor was unknowingly being taxed at a 6% non-resident tax rate versus a 4% resident tax rate. Since around 2017, the county property tax charged to the Debtor was approx. \$4,050.00 to \$4,572.00 when it should have been approx.. \$1,380.00 to \$1,541.00. This affects the prepetition arrearage, escrow and the ongoing mortgage payments which in turn increases the plan base needed and causes other issues in the case.
2. The Debtor applied for the resident tax rate shortly after the claim was filed. The Debtor has not been advised yet by Berkeley County how much the overage refund check will be or who it will be made out to. If the funds are paid to the Debtor, he intends to use the funds towards the arrearage or make his plan payments; if paid to the Mortgage Company, the Debtor expects that the funds will be applied to the arrearage. Once the application is approved, he will confirm/ advise the Mortgage Company of the amounts for the Mortgage Company to re-run escrow to adjust the ongoing mortgage payments but the estimates (based on the Berkeley County online tax estimator/ calculator) are below.
3. The second issue is the Mortgage Company has been charging the Debtor for force-placed insurance on the property but the Debtor has homeowner's/ property insurance that he has been paying directly to USAA (not through escrow) since at least approx. Sept 2022. The Debtor has provided proof of insurance to the mortgage company. The Debtor would like a credit for the time he was being charged for force-placed insurance when he had insurance on the property but, more importantly, he requests that the force-placed insurance charge be removed going forward.
4. The Debtor is informed and believes the correct mortgage payment should be approx. \$1,224.00 estimated as follows:

Anticipated tax and/ or insurance premiums:

	Proof of Claim	Corrected Amount
Annual Property tax	\$4,572.03	\$1,541.00
Annual Property Insurance	\$1,406.68	\$0.00
Total	\$5,978.71	\$1,541.00
Divided by 12 months	\$498.23 per month	\$129.00 per month

Mortgage Payment

	Proof of Claim	Corrected Amount
Principal and Interest	\$1,094.98	\$1,094.98
Required escrow payment	\$508.88	\$129.00
Total Monthly Payment	\$1,603.86	\$1,224.00

WHEREFORE, the Debtor objects to the claim as filed and requests that the Mortgage Company amend its claim to reflect the adjusted escrow/ ongoing mortgage payments based on the estimated 4% resident tax rate amount and removal of the force-placed property insurance.

Date: 8/3/2023

/s/ Suzanne Campbell Chisholm
Suzanne Campbell Chisholm
Attorney for Debtors
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